Regional Contact: Dick Schutt (404/347–3555, x4206), EPA, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, GA 30365

Region 5: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
Regional Contacts: Madelin Rucker for the States of Michigan, Minnesota and Wisconsin (312/886–0661); John Summerhays (312/886–6067) and Fayette Bright (312/886–6069) for the States of Illinois, Indiana, and Ohio.
EPA, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, IL 60604–3507

Region 6: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Regional Contact: Bill Deese (214/665–7253), EPA, Multimedia Planning and Permitting Division, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733

Region 7: Iowa, Kansas, Missouri, and Nebraska.
Regional Contact: John Pawlowski (913/551–7920), EPA, Air and Toxics Division, Air Branch, 726 Minnesota Avenue, Kansas City, KS 66101

Region 8: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Regional Contact: Laurie Ostrand (303/293–1757), EPA, Air & Toxics Division, Air & Technical Operations Branch, 999 18th Street, Suite 500, Denver, CO 80202–2466

Region 9: Arizona, California, Hawaii, Nevada, American Samoa, and Guam.
Regional Contacts: Julie Rose (415/744–1184) and Cynthia Allen (415/744–1189), EPA, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105

Region 10: Alaska, Idaho, Oregon, and Washington.
Regional Contact: Montel Livingston (206/553–0180), EPA, Office of Air (AT–082), 1200 6th Avenue, Seattle, WA 98101

SUPPLEMENTARY INFORMATION: National ambient air quality standards (NAAQS) are set for criteria pollutants, which are widespread common pollutants known to be harmful to human health and welfare. The present criteria pollutants are: Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, and Sulfur oxides. See 40 CFR Part 50 for a technical description of how the levels of these standards are measured and attained. SIPs provide for implementation, maintenance, and enforcement of the standard in each air quality control region in the applicable states. The air quality control regions are described for each State in 40 CFR Part 81. According to the attainment status designation of an area, different regulations or programs in the SIP will apply.

States are required to develop SIPs containing strategies for controlling emissions from pollution sources. See 40 CFR Part 51—Requirements for Preparation, Adoption, and Submittal of Implementation Plans. SIPs are legal documents, formally adopted, committing States to carry out their air pollution control strategies and include regulations, which are both specific and enforceable, for sources of air pollution. These control strategies and regulations are submitted in accordance with the Act and, upon approval by EPA, become part of the current Federally-enforceable SIP. (See 40 CFR part 52—Approval and Promulgation of Implementation Plans (with Subparts presenting the status for each State and territory). The first section in the Subpart for each State is the ''Identification of plan'' section which provides chronological development of the State SIP. The identification of plan section identifies the State submitted rules which have been Federally approved. The goal of the State by State SIP compilation is to identify those rules under the ''Identification of plan'' section which are currently Federally enforceable. The other sections within the Subpart give the status of various SIP-required programs.)

SIPs may also include, among other elements, local air authority regulations and requirements concerning the control of criteria pollutants.

At the present time, some of the SIP compilations may not identify these other Federally enforceable elements.

The public should note that, when States have submitted their most current State regulations for inclusion into Federally-enforceable SIPs, EPA will begin its review process of submittals as soon as possible. Until EPA approves a submittal, State submitted regulations will be State-enforceable only; therefore, State-enforceable SIPs may exist which differ from Federally-enforceable SIPs. As EPA approves these State submitted regulations, the regional offices will continue to update the SIP compilations to include these applicable requirements.

This notice today informs the public and identifies the appropriate EPA regional offices to which the public may address questions of SIP availability and requirements.

Dated: October 20, 1995.

Carol M. Browner,

U.S. EPA Administrator.

[FR Doc. 95–26862 Filed 10–31–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[FRL–5323–5]

Clean Air Act Final Interim Approval of the Operating Permits Programs; San Luis Obispo County Air Pollution Control District, Santa Barbara County Air Pollution Control District, and Ventura County Air Pollution Control District, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Programs submitted by the California Air Resources Board on behalf of the San Luis Obispo County Air Pollution Control District, the Santa Barbara County Air Pollution Control District, and the Ventura County Air Pollution Control District for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: December 1, 1995.

ADDRESSES: Copies of the Districts' submittals and other supporting information used in developing the final interim approvals are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: For information on San Luis Obispo's program, contact Frances Wicher (telephone: 415/744–1250), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105. For information on Santa Barbara's program or Ventura's program, contact Martha Larson (telephone: 415/744–1238) at the same address.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Act), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for

approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

EPA proposed interim approval of San Luis Obispo's title V operating permits program on September 1, 1995 (60 FR 45685), Santa Barbara's program on July 10, 1995 (60 FR 35538), and Ventura's program on November 22, 1994 (59 FR 60104). In these Federal Register documents, EPA also proposed approval of each District's interim mechanism for implementing sections 112(g) and, under 112(l), its program for delegation of section 112 standards as promulgated. Public comment was solicited on all these proposed actions. EPA received comments on the proposed approval of Santa Barbara's and Ventura's operating permits program and is responding to these comments in this document. EPA did not receive any comments on its proposed interim approval of San Luis Obispo's program. The proposed actions to interimly approve the Districts' operating permit programs and approve their 112(g) and delegation mechanisms have not been altered as a result of public comment.

II. Final Action and Implications

A. Analysis of State Submissions

San Luis Obispo's title V operating permits program was submitted by the California Air Resources Board (CARB) on November 15, 1993. Additional material was submitted on February 18, 1994, and May 3, May 23 and August 21, 1995.

Santa Barbara's title V operating permits program was submitted by the CARB on November 15, 1993. Additional material was submitted on March 2, August 8, and December 8, 1994, and June 15, 1995.

Ventura's title V operating permits program was submitted by CARB on November 16, 1993. Additional material was submitted on December 6, 1993. Since the time that EPA proposed interim approval, Ventura has adopted regulations to implement title IV of the Act. On March 14, 1995, Ventura incorporated part 72 by reference into District Rule 34. Rule 34 was submitted to EPA on April 28, 1995.

EPA proposed interim approval of each District's program in accordance with § 70.4(d), on the basis that the program ''substantially meets'' part 70 requirements. The analyses of the Districts' programs in the proposed approvals remain unchanged and will not be repeated in this final document. The program deficiencies identified for each program in the proposed approvals also remain unchanged except for a change to Santa Barbara's interim approval issue related to the definition of title I modifications. This change is discussed in II.B.1.b. below. Each District must correct the program deficiencies listed in its proposed interim approval in order to receive full approval.

At the time of proposals for each District, EPA believed that an implementation agreement between EPA and each District would be completed prior to final interim approval. EPA and the Districts have not yet finalized implementation agreements but are working to do so as soon as practicable.

B. Public Comment

EPA received comments on the proposed interim approvals for Santa Barbara and Ventura. No comments were received on the proposed interim approval for San Luis Obispo.

1. Comments on the Proposed Interim Approval for Santa Barbara

EPA received comments on the proposed interim approval of the Santa Barbara program from two public commenters: Vandenberg Air Force Base (Vandenberg), and the Santa Barbara County Air Pollution Control District. These comments are discussed below.

a. Insignificant Activities. Vandenberg submitted comments regarding EPA's discussion of insignificant activities in the July 10, 1995 proposal notice. Primarily, Vandenberg requested that EPA clarify the requirements that Santa Barbara must meet with respect to insignificant activities for full approval of its part 70 program. Vandenberg commented that, because of the size of the Air Force Base, determinations of insignificant activities based on potential emissions and based on source category emissions rather than unit emissions would be burdensome, because the aggregated source-category emissions at Vandenberg would prevent any units from being determined to be insignificant. Vandenberg specifically asked (1) whether EPA required Santa Barbara to include insignificant emission levels and other ''gatekeepers'' in Rule XIII as well as providing documentation demonstrating that the activities listed in Rule 202 are insignificant, (2) whether the insignificant emission levels may be expressed in terms of actual emissions, and (3) whether insignificant emission levels were intended to be applied on a device basis or on a source category basis.

Section 70.4(b)(2) requires States to include in their part 70 programs any criteria used to determine insignificant activities or emission levels for the purpose of determining complete applications. Under part 70, a State must request and EPA must approve as part of that State's program any activity or emission level that the State wishes to consider insignificant. Santa Barbara submitted District Rule 202, its current permit exemption rule, as its list of insignificant activities. Santa Barbara did not provide EPA with criteria used to develop the exemptions list, information on the level of emissions from the activities, or with a demonstration that these activities are not likely to be subject to an applicable requirement.

Santa Barbara has two options with regards to insignificant activities. Under one option, Santa Barbara would provide a demonstration that activities exempted from permitting under Rule XIII (pursuant to Rule 202, the District's permit exemption list) are truly insignificant and are not likely to be subject to an applicable requirement. Santa Barbara's alternative would be to revise Rule XIII to include a restriction that may be used in conjunction with Rule 202 to define insignificant activities. Rule XIII would be revised to include District-established emission levels. These District-established levels must include separate emission levels for HAPs and for other regulated air pollutants. Santa Barbara would then only have to demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements.

The District may establish insignificant emission levels in terms of actual or potential emissions, and may define insignificant activities either on a unit-by-unit basis, or a source-category basis. The emission levels, in conjunction with the insignificant activity list and the § 70.5(c) requirement that applications may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fees, would be used to define insignificant activities. Also note that emissions from insignificant activities must be included in determining whether a facility is a major source subject to title V.

In the proposed rulemaking EPA suggested insignificance levels that the

Agency would find acceptable without a further demonstration. EPA's limits are provided as an example of what may be acceptable. However, EPA clearly stated in the proposal notice that our request for comment on these proposed levels is not intended to restrict the ability of the District to propose and EPA to approve other emission levels if the District demonstrates that such alternative emission levels are insignificant compared to the levels of emission from types of units that are permitted or subject to applicable requirements.

EPA would like to note that Santa Barbara has the flexibility to modify its regulations and submit criteria for EPA approval of new exemptions, as long as the District demonstrates, or EPA is otherwise satisfied, that such alternative emission levels are insignificant compared to the level of emissions and types of units that are required to be permitted or subject to applicable requirements. EPA is not prohibiting Santa Barbara from setting its own limits, as long as limits are demonstrated to be truly insignificant and the activities or units are not likely to be subject to applicable requirements. With this understanding, one of Santa Barbara's options would be to revise its Rule 1301 definitions of ''insignificant emissions'' and ''insignificant emission levels'' to meet the part 70 requirements and to link the two definitions, so that insignificant emission levels are defined as criteria for determining insignificant activities. An option for revising Santa Barbara's definition of ''insignificant emission levels'' would be ''`Insignificant Emissions Levels' mean the emission levels that, for regulated air pollutants, are exempt from District permitting pursuant to Section A.3. of District Rule 202 and additionally for HAPs, do not exceed Section 112(g) de minimis levels or other title I significant modification levels for hazardous air pollutants and other toxics.''

b. Title I Modifications. The July 10, 1995 proposal notice identified Santa Barbara's omission of certain part 60 modifications from the definitions of ''title I (or major) modification'' and ''significant part 70 permit revision'' as an interim approval issue. See 60 FR 35538. Based on a June 15, 1995 commitment letter from Santa Barbara, EPA proposed that Santa Barbara must correct these definitions for full approval. Additionally, EPA required that Santa Barbara provide interpretive guidance demonstrating that all modifications under part 60 will be treated as significant permit modifications in order to receive final interim approval.

Santa Barbara commented to request that its final interim approval not be conditioned upon the District's issuing interpretive guidance explaining how all modifications under part 60 would be treated as significant permit modifications. Santa Barbara reiterated its June 15, 1995 commitment to issue this guidance. However, citing program rules, the District stated that it could not undertake this kind of activity prior to EPA's final interim approval of its part 70 operating permits program. Santa Barbara committed to having the interpretive guidance in place prior to revising any part 70 permits involving modifications under part 60.

Santa Barbara's definition of ''title I modification'' does not include modifications under part 60. Santa Barbara's definition of ''significant part 70 permit modification'' includes only ''Any equivalent or identical replacement of an emission unit that is subject to standards promulgated under CAA, section 111 or 112.'' Therefore, Santa Barbara's rule would not require all modifications under part 60 to be processed as significant permit revisions. Part 70 requires all modifications under title I of the Act to be processed as significant permit modifications (§ 70.7(e)(2)(i)(A)(5)). EPA's initial part 70 proposal (56 FR 21712) identified part 60 modifications as title I modifications.

Neither EPA's August 29, 1994 proposed revisions to part 70 (59 FR 44460) nor EPA's August 31, 1995 supplemental proposal (60 FR 45530) removes part 60 from the definition of ''title I modifications.'' The August 31, 1995 notice's proposed definition of ''title I modification'' includes a reference to 111(a)(4), which is the enabling legislation for part 60 modifications: ''Title I modification or modification under any provision of title I of the Act means any modification under parts C and D of title I or sections 111(a)(4), 112(a)(5), or 112(g) of the Act; under regulations promulgated by EPA thereunder or in 61.07 of part 61 of this chapter; or under State regulations approved by EPA to meet such requirements.'' EPA has determined that inclusion of part 60 modifications under the definition of title I modification, and thus under the definition of significant part 70 modification, is necessary for full approval. In the July 10, 1995 notice proposing interim approval of Santa Barbara's rule, EPA proposed that the interpretive guidance be issued prior to any permit modifications, and therefore required the issuance of this guidance as a condition of final interim approval. However, EPA is confident that, based on Santa Barbara's June 15, 1995 and August 9, 1995 commitments, Santa Barbara will implement its rule consistently with part 70's definition of title I modification. Through oversight, EPA will monitor the District's rule implementation, and any permit modification that does not treat part 60 modifications as significant permit modifications is subject to EPA objection. Therefore, EPA has determined that Santa Barbara's commitment is adequate for final interim approval.

2. Comments on the Proposed Interim Approval for Ventura

EPA received comments on the proposed interim approval of the Ventura County program from four public commenters: the National Environmental Development Association Clean Air Regulatory Project (NEDA/CARP), the American Forest & Paper Association (AF&PA), the California Air Resource Board (CARB), and the Ventura County Air Pollution Control District (APCD).

a. Section 112(g) Implementation. The APCD comments expressed concerns with implementing a 112(g) program prior to EPA's promulgation of 112(g) guidance. AF&PA and NEDA/CARP also commented that EPA should not approve use of the District's preconstruction permitting program for the purposes of implementing 112(g) prior to EPA's promulgation of a 112(g) rule. The AF&PA and NEDA/CARP objected to the implementation of 112(g) without EPA's guidance on de minimis emission increases, offsets, and applicability under 112(g). The AF&PA and NEDA/CARP believe that the District would not be able to appropriately determine applicability of MACT standards prior to promulgation of the 112(g) rule. AF&PA stated that the lack of guidance would cause the District to implement a 112(g) program in such a manner that could unfairly put sources at risk of enforcement action if it was later found that the District's implementation of 112(g) was not consistent with EPA's 112(g) rule.

Section 112(g)(2) of the Clean Air Act prohibits the construction, reconstruction, and modification of any major source of hazardous air pollutants after the effective date of a title V program unless the source meets MACT. EPA received many comments on 112(g) implementation and agrees that it is not reasonable to expect the States and Districts to implement section 112(g) before a Federal 112(g) rule is issued. EPA has therefore published an interpretive notice in the Federal Register regarding section 112(g) of the Act. 60 FR 8333 (February 14, 1995).

The interpretive notice outlines EPA's revised interpretation of section 112(g) applicability prior to EPA's issuing the final section 112(g) rule. The interpretive notice allows State and local agencies to decide whether to delay implementing 112(g) of the Act until EPA promulgates a final 112(g) rule unless they choose to implement the requirements of 112(g) as a matter of state or local law prior to EPA promulgation of the 112(g) rule. Major source modifications, constructions, and reconstructions will not be subject to section 112(g) requirements until the final rule is promulgated.

The interpretive notice further explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of the effective date of section 112(g), Ventura must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing District regulations. Therefore, EPA is approving the use of Ventura's preconstruction program as an interim mechanism, as proposed.

However, since approval is intended solely to confirm that the District has a mechanism to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period.

The APCD and CARB commented that EPA should allow at least 18 months, rather than 12 months, to develop section 112(g) regulations following EPA's promulgation of the Federal section 112(g) rule. The District stated that 12 months may not be sufficient time to both undergo the regulatory development process and prepare a section 112(l) equivalency package for approval of the District's regulation to be used in lieu of the Federal 112(g) rule. Additionally, CARB commented that, contingent upon a District submitting a 112(l) equivalency package within 18 months of EPA's promulgation of a 112(g) rule, EPA should extend the interim approval of the District's preconstruction permit program for implementing a 112(g) program until EPA has finally approved or disapproved the District's 112(l) submittal.

EPA has approved an 18-month transition period in other states and does not see a unique reason to limit Ventura, Santa Barbara or San Luis Obispo to 12 months. If in the final section 112(g) rule, however, the transition period is eliminated, the Districts must follow the implementation time lines set out in that rulemaking. In addition, EPA believes that, in most cases, 18 months will be an adequate period of time for (1) districts to adopt a 112(g) rule, (2) districts to make a complete submittal, (3) EPA to determine the submittal complete, and (4) EPA to approve the submittal under 112(l). Under EPA's 112(l) rule (''Approval of State Programs and Delegation of Federal Authority,'' 58 FR 62262), EPA is required to process a submittal within 6 months of determining the submittal complete. EPA believes that approval of a longer time period could inappropriately delay implementation of a 112(g) program.

b. Insignificant Activities. The APCD commented that the District's categorical permit exemption list should be accepted as its list of insignificant activities. The APCD stated that the list was a result of the District's experience over many years, and so represents the best approach to determining insignificant activities. AF&PA and NEDA/CARP also recommend that the District's current list be accepted.

EPA recognizes that information about insignificant emissions units may not be needed in some cases to assure compliance with all applicable requirements or to determine applicability. Therefore, part 70 allows state and local agencies to submit a list for approval of insignificant activities and emissions levels. This list must be accompanied with some sort of justification or selection criteria that assure insignificance with respect to Federal applicable requirements (section 70.4(b)(2)). The fact that the District has a preexisting exemption list does not constitute sufficient justification. As stated in the proposal, Ventura's program provided EPA with no criteria or information on the level of emissions from activities on the District's exemption lists. In addition, the specific insignificant activities provisions submitted by Ventura have raised concerns with EPA regarding the District's ability to ensure that applicable requirements are included in permits. Ventura did not provide EPA with a demonstration to the contrary. Because Ventura has not provided EPA with justification for each categorical exemption, EPA does not have adequate information on which to evaluate the activities, and cannot approve the District's exemption list.

The APCD commented that EPA's requirement that emission levels be set is impractical, because levels based on potential emissions would exempt few sources, while levels based on actual emissions would require that sources keep records to demonstrate emissions are below the levels, which would be burdensome.

EPA disagrees that setting emission levels is impractical or burdensome. These emission levels could be evaluated based on actual emissions, although demonstrations could also be made based upon potential emissions. Nothing in part 70 requires sources to keep ongoing records to demonstrate eligibility for insignificant activity status.

AF&PA and NEDA/CARP commented that EPA's suggested ''acceptable'' emissions levels are too stringent, and that EPA is not providing the District opportunity to define alternative thresholds, and that EPA has no authority to hold out ''suggested'' emission levels as a threshold for receiving full approval.

In the proposed rulemaking EPA suggested insignificance levels that the Agency would find acceptable even without a further demonstration. EPA's limits are provided as an example of what may be acceptable. However, EPA clearly stated in the proposal notice that its request for comment on these proposed levels ''is not intended to restrict the ability of the District to propose and EPA to approve other emission levels if the District demonstrates that such alternative emission levels are insignificant compared to the levels of emission from types of units that are permitted or subject to applicable requirements.''

EPA would like to note that Ventura has the flexibility to modify its regulations and submit criteria for EPA approval of new exemptions, as long as the District demonstrates, or EPA is otherwise satisfied, that such alternative emission levels are insignificant compared to the level of emissions and types of units that are permitted or subject to applicable requirements. EPA is not prohibiting Ventura from setting its own limits, as long as limits are demonstrated to be truly insignificant and not likely to be subject to an applicable requirement.

c. Title I Modifications. Ventura commented that ''title I modifications'' should not be interpreted to include minor NSR. NEDA/CARP and AF&PA supported EPA's decision that inclusion of minor NSR in the definition of ''title I modification'' not be an interim approval issue.

NEDA/CARP and AF&PA both contend that neither EPA nor the District has authority to include as ''title I modifications'' those changes made pursuant to a preconstruction permitting program approved under the SIP. Furthermore, the commenters state that requiring Ventura's program regulations to include the more encompassing definition of ''title I modification'' would constitute a revision to the Agency's current operating permits rule. However, both commenters support EPA's position of not making title I modifications an issue in granting interim approval to Ventura's title V program, and therefore are not asking for any changes to be made.

In an August 29, 1994 rulemaking proposal, the Agency solicited public comment on whether ''title I modifications'' should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under title I of the Act. (59 FR 44572, 44573). This would include State preconstruction review programs approved by EPA as part of the State Implementation Plan under section 110(a)(2)(C) of the Clean Air Act.

The EPA has not yet taken final action on the August 29, 1994 proposal. However, in response to public comment on that proposal, the Agency has decided that the definition of ''title I modifications'' is best interpreted as not including changes reviewed under minor NSR programs. This decision was announced in a June 20, 1995 letter from Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to Congressman John D. Dingell, and is published in a supplemental rulemaking proposal in the Federal Register. 60 FR 45530 (August 31, 1995). Thus, EPA expects to confirm that Ventura's definition of ''title I modification'' is fully consistent with part 70.

The August 29, 1994 action proposed to, among other things, allow State programs with a more narrow definition of ''title I modifications'' to receive interim approval (59 FR 44572). The Agency stated that if, after considering the public comments, it continued to believe that the phrase ''title I modifications'' should be interpreted as including minor NSR changes, it would revise the interim approval criteria as needed to allow states with a narrower definition to be eligible for interim approval. If EPA does conclude, during this rulemaking, that Title I modifications should be read to include minor NSR, it will implement the interim approval option spelled out in the August 29, 1994 proposal.

d. Emissions Trading. AF&PA and NEDA/CARP supported EPA's identification of emission trading as an interim approval issue. The commenters agreed that Ventura should be required to revise its regulation to provide for emission trading where an applicable requirement provides for trading increases and decreases without a case-by-case approval as a condition of full program approval. Ventura has commented that the District plans to revise its regulations to include applicable requirement emission trading.

e. Significant Changes to Monitoring Terms and Conditions. Ventura requested EPA's guidance in defining ''significant'' with respect to changes to monitoring terms and conditions. AF&PA and NEDA/CARP commented that this change should not be an interim approval issue, for the reasons that EPA has not adequately defined ''significant'' for these purposes, and because EPA has requested public comment on more flexible requirements for permit modifications due to significant changes to monitoring terms and conditions.

Part 70 does not specifically define ''significant'' with respect to significant modifications to monitoring terms and conditions. This gives permitting authorities discretion in determining which changes are considered to be ''significant.'' Part 70 does distinguish between ''significant'' changes, and ''relaxations'' to other types of permitting terms and conditions. Significant permit changes would encompass relaxations and other changes. EPA has not specifically defined the term ''significant''; however, EPA has given examples of how changes in monitoring terms and conditions would be classified with respect to permit modification tracks in EPA's response to comments on the proposed part 70 rule, (see ''Response to Comments on the 40 CFR Part 70 Rulemaking,'' Docket No. A–90–33), and also in the final part 70 rule.

EPA does not agree that this deficiency should be dropped as an interim approval issue pending the revisions to part 70. EPA proposed, in the August 31, 1995 Federal Register, to revise current part 70 requirements for permit modifications. See 60 FR 45530. However, EPA must approve current programs according to the existing part 70 rule until the time that the part 70 program is revised. Therefore, this remains an interim approval issue.

f. Modifications Prior to Permit Conditions. The APCD commented that requiring permit revisions to be made prior to the actual modifications is impractical because implementation of the actual change may necessitate further changes to the permit.

This comment goes to the structure of part 70 rather than the approvability of Ventura's program. Therefore, EPA believes that no change to EPA's proposed action on the approvability of Ventura's title V program is required in response to this comment. On August 31, 1995, EPA proposed a supplement to part 70 that includes revisions to the current permit modification procedures, with the opportunity for public comment (60 FR 45530). However, until revisions to part 70 are promulgated, all part 70 programs must be consistent with the current part 70 rule, which requires that, unless modifications are subject to section 112(g) or title I, parts C and D of the Act, and are not prohibited by the existing part 70 permit, significant permit modifications must be approved prior to their implementation.

B. Final Action

1. Interim Approvals

EPA is promulgating interim approval of the operating permit programs for San Luis Obispo County, Santa Barbara County, and Ventura County, California. The part 70 programs approved in this document apply to all part 70 sources (as defined in the approved program) within the each District including any title V sources on the outer continental shelf within 25 miles of shore, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–55818 (November 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

These interim approvals, which may not be renewed, extend until December 1, 1997. During this interim approval period, each District is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in any of these Districts. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for

processing the initial permit applications.

If any of the three Districts fails to submit a complete corrective program for full approval by June 2, 1997, EPA will start an 18-month clock for mandatory sanctions for that District. If the District then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act to the District and that sanction will remain in effect until EPA determines that the District has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the District has come into compliance. In any case, if, six months after application of the first sanction, the District still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves a District's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the District has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the District, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the District has come into compliance. In all cases, if, six months after EPA applies the first sanction, the District has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the District has not submitted a timely and complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the District's program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for the District upon interim approval expiration.

a. San Luis Obispo's Title V Operating Permits Program. The EPA is promulgating interim approval of San Luis Obispo's title V operating permits program. The program deficiencies described in the proposed rulemaking, under Section II.B.2., Interim Approval Issues for San Luis Obispo's Title V Operating Permits Program, and the legislative deficiency outlined under Section II.B.3., California Enabling Legislation—Legislative Source Category Limited Interim Approval Issue (see 60 FR 45685 (September 1, 1995)), must be corrected in order for the District to be granted full approval.

b. Santa Barbara's Title V Operating Permits Program. EPA is promulgating interim approval of Santa Barbara's operating permits program submitted on November 15, 1993, and amended March 2, August 8, and December 8, 1994, and June 15, 1995. Excepted as noted below, the program deficiencies described in the proposed rulemaking, under Section II.B.1., Santa Barbara's Title V Operating Permits Program, and the legislative deficiency outlined under Section II.B.2., California Enabling Legislation—Legislative Source Category Limited Interim Approval Issue (see 60 FR 35538 (July 10, 1995)), must be corrected in order for the District to be granted full approval. In response to comments received, EPA has modified the interim approval issued related to the definition of title I modifications (Issue *m* in the proposal). In addition to the other interim approval issues noted in the proposed approval, the District must make the following change to receive full approval:

Definition of Title I Modifications and Significant Part 70 Permit Modifications

Rule 1301 defines ''modification'' to include all modifications under 40 CFR part 60. However, the definitions of ''title I (or major) modification'' and ''significant part 70 permit modification'' do not clearly define all modifications under part 60 as title I modifications and do not clearly ensure they will be treated as significant permit modifications. See discussion in Section II.B.1.b. of this notice. Santa Barbara submitted a June 15, 1995 letter from Peter Cantle, Engineering Division Manager, Santa Barbara County Air Pollution Control District, committing to provide interpretive guidance demonstrating that all modifications under 40 CFR part 60 will be treated as significant permit modifications. In order to receive full approval, Santa Barbara must finalize and submit to EPA interpretive guidance demonstrating that all modifications under 40 CFR part 60 will be treated as significant permit modifications. Additionally, in order to receive full approval, Santa Barbara must clarify the definitions of ''title I (or major) modification'' and ''significant part 70 permit modification'' to include all modifications under 40 CFR part 60.

c. Ventura's Title V Operating Permits Program. The EPA is promulgating interim approval of Ventura's operating permits program submitted on November 16, 1993 and amended December 6, 1993. The program deficiencies described in the proposed rulemaking, under Section II.B.1., Ventura's Title V Operating Permits Program, and the legislative deficiency outlined under Section II.B.2., California Enabling Legislation—Legislative Source Category Limited Interim Approval Issue (see 59 FR 60104 (November 22, 1994)), must be corrected in order for the District to be granted full approval.

2. Districts' Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of each District's preconstruction review program as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and adoption by each District of rules specifically designed to implement section 112(g). EPA is limiting the duration of this approval to 18 months following promulgation by EPA of the section 112(g) rule.

3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program approval, specified in 40 CFR section 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that a permitting authority's title V program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR section 63.91 of each of the District's programs for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. These programs for delegations apply to both existing and future standards but is limited to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of submittal for San Luis Obispo, Santa Barbara, and Ventura as well as other information relied upon

for the final interim approvals are contained in docket numbers CA–SLO–95–01–OPS (for San Luis Obispo), CA–SB–95–1–OPS (for Santa Barbara), and CA–VT–94–1–OPS (for Ventura) maintained at the EPA Regional Office. Each docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The dockets are available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under sections 502 and 112 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the interim approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: October 23, 1995.

Felicia Marcus,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding paragraphs (z), (aa), and (gg) to the entry for California to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

The following district program was submitted by the California Air Resources Board on behalf of:

* * * * *

(z) *San Luis Obispo County APCD* (complete submittal received on November 16, 1995); interim approval effective on December 1, 1995; interim approval expires December 1, 1997.

(aa) *Santa Barbara County Air Pollution Control District* (APCD) submitted on November 15, 1993, as amended March 2, 1994, August 8, 1994, December 8, 1994, and June 15, 1995; interim approval effective on December 1, 1995; interim approval expires December 1, 1997.

* * * * *

(gg) *Ventura County Air Pollution Control District* (APCD) submitted on November 16, 1993, as amended December 6, 1993; interim approval effective on December 1, 1995; interim approval expires December 1, 1997.

* * * * *

[FR Doc. 95–27142 Filed 10–31–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5323–8]

Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of policy change.

SUMMARY: The Environmental Protection Agency (EPA) is changing its policy concerning deletion of sites listed on the National Priorities List (NPL), or Superfund sites. EPA will now delete releases of hazardous substances at portions of sites, if those releases qualify for deletion. Sites, or portions of sites, that meet the standard provided in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), i.e., no further response is appropriate, may be the subject of entire or partial deletion. EPA expects that this action will help to promote the economic redevelopment of Superfund sites, and will better communicate the completion of successful partial cleanups.

EFFECTIVE DATE: November 1, 1995.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, (5203G), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460; (703) 603–8769. An alternative contact is the Superfund Hotline; 1–800–424–9346 (TDD 800–553–7672), or in the Washington, D.C. area, (703) 412–9810), (TDD 703–412–3323).

SUPPLEMENTARY INFORMATION: With State concurrence, EPA may delete sites from the NPL when it determines that no further response is appropriate under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). *See* 40 CFR 300.425(e). In making that determination, EPA typically considers: whether responsible or other parties have implemented all appropriate and required response actions; whether all appropriate Fund-financed responses under CERCLA have been implemented and EPA has determined that no further cleanup by responsible parties is appropriate; or whether the release of hazardous substances poses no significant threat to the public health, welfare or the environment, thereby eliminating the need for remedial action.

To date, EPA policy has been to delete releases only after evaluation of the entire site. However, deletion of entire sites does not communicate the successful cleanup of portions of those sites. Total site cleanup may take many years, while portions of the site may have been cleaned up and may be available for productive use. Some potential investors or developers may be reluctant to undertake economic activity at even a cleaned-up portion of real property that is part of a site listed on the NPL.

Therefore, EPA will delete portions of sites, as appropriate, and will consider petitions to do so. Such petitions may be submitted by any person, including individuals, business entities, States, local governments, and other Federal agencies. Partial deletion will also be governed by 40 CFR 300.425(e). State concurrence will continue to, thus, be a requirement for any partial deletion.